

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JERMAINE GORDON,

Plaintiff,

-against-

C.O. MR. DRUMMOND; C.O. MS. JACKSON;
DEPARTMENT OF CORRECTIONS,

Defendants.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC. #
DATE FILED: NOV 15 2019

19-CV-8405 (GBD)

ORDER OF SERVICE

GEORGE B. DANIELS, United States District Judge:

Plaintiff, appearing *pro se*, brings this action under 42 U.S.C. § 1983, alleging that Defendants violated his federal constitutional rights when he was detained at the Anna M. Kross Center (“AMKC”) at Rikers Island. By order dated November 14, 2019, the Court granted Plaintiff’s request to proceed without prepayment of fees, that is, *in forma pauperis* (“IFP”).

DISCUSSION

A. New York City Department of Correction

Plaintiff’s claims against the New York City Department of Correction (“DOC”) must be dismissed because an agency of the City of New York is not an entity that can be sued. N.Y. City Charter ch. 17, § 396 (“[A]ll actions and proceedings for the recovery of penalties for the violation of any law shall be brought in the name of the city of New York and not in that of any agency, except where otherwise provided by law.”); *Jenkins v. City of New York*, 478 F.3d 76, 93 n.19 (2d Cir. 2007); *see also Emerson v. City of New York*, 740 F. Supp. 2d 385, 396 (S.D.N.Y. 2010) (“[A] plaintiff is generally prohibited from suing a municipal agency.”).

In light of Plaintiff’s *pro se* status and clear intention to assert claims against the City of New York, the Court construes the complaint as asserting claims against the City of New York, and directs the Clerk of Court to amend the caption of this action to replace the DOC with the

City of New York. *See* Fed. R. Civ. P. 21. This amendment is without prejudice to any defenses the City of New York may wish to assert.

B. Waiver of Service

The Clerk of Court is directed to notify the DOC and the New York City Law Department of this order. The Court requests that the City of New York, Correction Officer Drummond, and Correction Officer Jackson waive service of summons.

C. Local Civil Rule 33.2

Local Civil Rule 33.2, which requires defendants in certain types of prisoner cases to respond to specific, court-ordered discovery requests, applies to this action. Those discovery requests are available on the Court's website under "Forms" and are titled "Plaintiff's Local Civil Rule 33.2 Interrogatories and Requests for Production of Documents." Within 120 days of the date of this order, Defendants must serve responses to these standard discovery requests. In their responses, Defendants must quote each request verbatim.¹

CONCLUSION

The Clerk of Court is directed to mail a copy of this order to Plaintiff, together with an information package.

The Court dismisses Plaintiff's claims against the Department of Correction. *See* 28 U.S.C. § 1915(e)(2)(B)(iii). The Clerk of Court is directed to add the City of New York as a Defendant under Fed. R. Civ. P. 21.

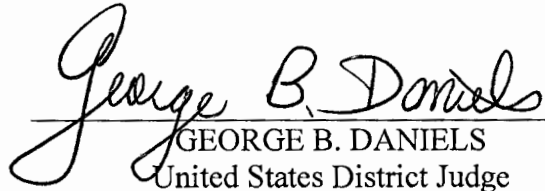
The Court requests that the City of New York, Correction Officer Drummond, and Correction Officer Jackson waive service of summons.

¹ If Plaintiff would like copies of these discovery requests before receiving the responses and does not have access to the website, Plaintiff may request them from the Pro Se Intake Unit.

Local Civil Rule 33.2 applies to this action.

SO ORDERED.

Dated: **NOV 14 2019**
New York, New York



GEORGE B. DANIELS
United States District Judge